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THE LAW OFFICE OF
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MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,627,573 : DECISION ON REQUEST
Williams et al. : FOR
Issue Date: December 1, 2009 : RECONSIDERATION OF
Application No. 10/811,044 : PATENT TERM ADJUSTMENT
Filed: March 27, 2004 : and
Atty Docket No. 42027 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 28, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least nine hundred fifty-seven (957) days. Patentee timely disputes under the provisions of 37 CFR 1.705(d) the reduction of 23 days for applicant delay entered on decision on patent term adjustment mailed May 18, 2010.

The request for reconsideration of petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **nine hundred fifty-five (955) days**.

Patentee's arguments have been considered and found persuasive. The entry of the period of reduction of 23 days, pursuant to 37 CFR 1.704(c)(10), for the filing of a paper on August 5, 2009 is not warranted. This paper is of the type the Director has deemed to not substantially interfere with the patent issuance process, a request to correct an error or omission in the

"Notice of Allowance" or "Notice of Allowability." See MPEP 2732. Accordingly, the period of reduction of 23 days has been removed.

However, a review of the record also revealed that the Office's entry of a period of adjustment of 680 days for B delay is incorrect. The patent issued 3 years and 980 days after the application filing date. The Office incorrectly calculated the period of exclusion for appellate review. The excluded period begins on the date on which a notice of appeal was filed.

However, in this case, the Office calculated both periods of exclusion as beginning on the day after the date a notice of appeal was filed, 233 and 67 days respectively, for a total of 300 excluded days. Whereas, the Office should have calculated the periods of exclusion as 234 and 68 days counting the number of days beginning on the date of filing of the notices of appeal on November 19, 2007 and May 18, 2009. As such, the B delay is corrected to 678 (980 - 302) days, not 680 days.

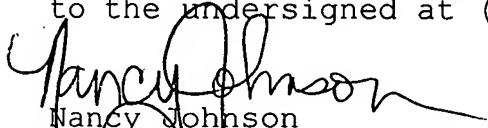
In view thereof, the revised patent term adjustment is nine hundred fifty-five **(955)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred fifty-five **(955)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,627,573 B2

DATED : December 1, 2009

DRAFT

INVENTOR(S) : Williams, Jr. et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 824 days

Delete the phrase "by 824 days" and insert – by 955 days--